

House File 2113 - Introduced

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BY JONES, HITE, and LOHSE

A BILL FOR

1 An Act providing for representation of adoptive parents and
2 guardians ad litem by local public defenders for children in
3 certain adoption proceedings.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 13B.9, subsection 1, paragraphs b and c,
2 Code 2022, are amended to read as follows:

3 *b.* Represent ~~an indigent~~ a party, upon order of the court,
4 in child in need of assistance, family in need of assistance,
5 delinquency, and termination of parental rights proceedings
6 pursuant to [chapter 232](#) when designated by the state public
7 defender to represent the ~~indigent~~ party in the type of case
8 for that county. The local public defender shall counsel and
9 represent ~~an indigent~~ a party in all proceedings pursuant to
10 chapter 232 to which the local public defender is appointed
11 and prosecute before or after judgment any appeals or other
12 remedies which the local public defender considers to be in
13 the interest of justice unless other counsel is appointed to
14 the case. A local public defender office shall represent in a
15 subsequent adoption proceeding ~~an indigent~~ a party who files
16 an adoption petition pursuant to [section 600.3](#) to adopt a
17 child who was the subject of a termination of parental rights
18 proceeding pursuant to [chapter 232](#) in which the local public
19 defender office was involved as provided under this paragraph.
20 If a conflict of interest arises, the representation shall be
21 provided through referral of the ~~indigent~~ party to outside
22 counsel with whom the state public defender has contracted,
23 subject to the fees for legal services incorporated in the
24 contract.

25 *c.* Serve as guardian ad litem for each child in all cases
26 in which the local public defender office is the state public
27 defender's designee. The local public defender shall be
28 responsible for determining who shall perform the duties of
29 the guardian ad litem as defined in [section 232.2](#) and shall
30 be responsible for assuring the court that the duties of the
31 guardian ad litem have been fulfilled. A local public defender
32 office shall serve as guardian ad litem for each child in
33 a subsequent adoption proceeding pursuant to section 600.3
34 to adopt a child who was the subject of a termination of
35 parental rights proceeding pursuant to chapter 232 in which

1 the local public defender office was involved as provided
2 under this paragraph. If a conflict of interest arises, the
3 representation shall be provided through retention of outside
4 counsel to serve as guardian ad litem for the child with whom
5 the state public defender has contracted, subject to the fees
6 for guardian ad litem services incorporated in the contract.

7 EXPLANATION

8 The inclusion of this explanation does not constitute agreement with
9 the explanation's substance by the members of the general assembly.

10 This bill provides for the representation of certain parties
11 in adoption proceedings and for a guardian ad litem for a child
12 in certain adoption proceedings.

13 Under current law, a local public defender office shall
14 represent an indigent party, upon order of the court, in
15 child in need of assistance, family in need of assistance,
16 delinquency, and termination of parental rights proceedings
17 pursuant to Code chapter 232 (juvenile justice) when designated
18 by the state public defender to represent the indigent party
19 in the type of case for that county. Additionally, a local
20 public defender office shall represent in a subsequent adoption
21 proceeding an indigent party who files an adoption petition to
22 adopt a child who was the subject of a termination of parental
23 rights proceeding pursuant to Code chapter 232 in which the
24 local public defender office was involved. If a conflict of
25 interest arises, the representation shall be provided through
26 referral of the indigent party to outside counsel with whom
27 the state public defender has contracted, subject to the fees
28 for legal services incorporated in the contract. The bill
29 provides that the local public defender office shall represent
30 any party, by court order, in these proceedings instead of only
31 an indigent party.

32 Under current law, a local public defender office shall
33 serve as guardian ad litem for each child in all cases in which
34 a local public defender office is the state public defender's
35 designee. The local public defender is responsible for

1 determining who shall serve as guardian ad litem pursuant to
2 Code chapter 232 (juvenile justice) and for assuring that the
3 duties are fulfilled. The bill requires, additionally, that
4 a local public defender office shall be appointed to serve as
5 guardian ad litem in a subsequent adoption proceeding to adopt
6 a child who was the subject of a termination of parental rights
7 proceeding pursuant to Code chapter 232 in which the local
8 public defender office was involved. If a conflict of interest
9 arises, the guardian ad litem shall be provided through
10 retention of an outside attorney to serve as guardian ad litem
11 with whom the state public defender has contracted, subject to
12 the fees for guardian ad litem incorporated in the contract.